

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:09CR241
Plaintiff,)
vs.)
JOSE PASILLAS-CASTANEDA,) MEMORANDUM AND ORDER
Defendant.)

This matter is before the Court on the Report and Recommendation (Filing No. 35) issued by Magistrate Judge F.A. Gossett recommending denial of the Defendant's motions to suppress (Filing Nos. 13, 15). No objections have been filed to the Findings and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C).

The Defendant seeks an order suppressing statements made and evidence seized as a result of the Defendant's June 2, 2009, detention, arrest, and questioning. Judge Gossett concluded: evidence obtained at Team Green Landscaping was legally obtained; probable cause existed for the Defendant's arrest; the Defendant's statement was voluntarily made; although the statement was given in violation of *Miranda*, the statement need not be suppressed under *Missouri v. Seibert*, 542 U.S. 600 (2004); and no "fruits of the poisonous tree" exist.

Notwithstanding the absence of objections, under 28 U.S.C. § 636(b)(1)(C) the Court has conducted a de novo review of the record. The Court has read the parties' briefs (Filing Nos. 14, 16, 24) and the transcript (Filing Nos. 30, 39). The Court has also viewed the evidence. (Filing No. 32.) Because Judge Gossett fully, carefully, and correctly applied

the law to the facts, the Court adopts the Findings and Recommendation in their entirety.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (Filing No. 35) are adopted in their entirety; and
2. The Defendant's motions to suppress (Filing Nos. 13, 15) are denied.

DATED this 10th day of December, 2009.

BY THE COURT:

S/Laurie Smith Camp
United States District Judge